

**Maine Revised Statutes**  
**Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES**  
**Chapter 3: MENTAL HEALTH**

**§3871. DISCHARGE**

**1. Examination.** The chief administrative officer of a psychiatric hospital shall, as often as practicable, but no less often than every 30 days, examine or cause to be examined every patient to determine that patient's mental status and need for continuing hospitalization.

[ 2007, c. 319, §17 (AMD) . ]

**2. Conditions for discharge.** The chief administrative officer of a psychiatric hospital shall discharge, or cause to be discharged, any patient when:

A. Conditions justifying hospitalization no longer obtain; [1983, c. 459, §7 (NEW) . ]

B. The patient is transferred to another hospital for treatment for that patient's mental or physical condition; [1997, c. 422, §23 (AMD) . ]

C. The patient is absent from the psychiatric hospital unlawfully for a period of 90 days; [2007, c. 319, §17 (AMD) . ]

D. Notice is received that the patient has been admitted to another hospital, inside or outside the State, for treatment for that patient's mental or physical condition; or [1997, c. 422, §23 (AMD) . ]

E. Although lawfully absent from the psychiatric hospital, the patient is admitted to another hospital, inside or outside the State, for treatment of that patient's mental or physical condition, except that, if the patient is directly admitted to another hospital and it is the opinion of the chief administrative officer of the psychiatric hospital that the patient will directly reenter the psychiatric hospital within the foreseeable future, the patient need not be discharged. [2007, c. 319, §17 (AMD) . ]

[ 2007, c. 319, §17 (AMD) . ]

**3. Discharge against medical advice.** The chief administrative officer of a psychiatric hospital may discharge, or cause to be discharged, any patient even though the patient is mentally ill and appropriately hospitalized in the psychiatric hospital, if:

A. The patient and either the guardian, spouse or adult next of kin of the patient request that patient's discharge; and [1997, c. 422, §23 (AMD) . ]

B. In the opinion of the chief administrative officer of the psychiatric hospital, the patient does not pose a likelihood of serious harm due to that patient's mental illness. [2007, c. 319, §17 (AMD) . ]

[ 2007, c. 319, §17 (AMD) . ]

**3-A. Discharge limited.** A psychiatric hospital may not discharge a person committed under section 3864 solely because the person is placed in execution of a sentence in a county jail.

[ 2009, c. 281, §4 (NEW) . ]

**4. Reports.**

[ 1995, c. 496, §7 (RP) . ]

**5. Notice.** Notice of discharge is governed as follows.

A. When a patient is discharged under this section, the chief administrative officer of the psychiatric hospital shall immediately make a good faith attempt to notify the following people, by telephone, personal communication or letter, that the discharge has taken or will take place:

- (1) The parent or guardian of a minor patient;
- (2) The guardian of an adult incompetent patient, if any is known; or
- (3) The spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given or unless the patient was transferred from or will be returned to a state correctional facility.

If the chief administrative officer of the psychiatric hospital to which the patient is currently admitted has reason to believe that notice to any of the individuals listed in this paragraph would pose a risk of harm to the person, then notice may not be given to that individual. [2007, c. 319, §17 (AMD).]

B. The psychiatric hospital is not liable when good faith attempts to notify the parents, spouse or guardian have failed. [2007, c. 319, §17 (AMD).]

[ 2007, c. 319, §17 (AMD) .]

**6. Discharge to progressive treatment program.** If a person participates in the progressive treatment program under section 3873-A, the time period of a commitment under this section terminates on entry into the progressive treatment program.

[ 2009, c. 651, §27 (AMD) .]

**7. Firearms and discharge planning.** Discharge planning must include inquiries and documentation of those inquiries into access by the patient to firearms and notification to the patient, the patient's family and any other caregivers that possession, ownership or control of a firearm by the person to be discharged is prohibited pursuant to Title 15, section 393, subsection 1. As used in this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

[ 2009, c. 451, §11 (NEW) .]

#### SECTION HISTORY

1983, c. 459, §7 (NEW). 1995, c. 496, §§7,8 (AMD). 1997, c. 422, §23 (AMD). 2005, c. 519, §BBBB13 (AMD). 2005, c. 519, §BBBB20 (AFF). 2007, c. 319, §17 (AMD). 2009, c. 281, §4 (AMD). 2009, c. 451, §11 (AMD). 2009, c. 651, §27 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 127th Maine Legislature and is current through October 1, 2016. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.